

# **EXHIBIT A**

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0456**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where



possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.



Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;



- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;

- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,



1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and



should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Christina O. Principe  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 819-1551  
**Email:** [christina.principe@acf.hhs.gov](mailto:christina.principe@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0464**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.



**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.



5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.



- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.'s** premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.



- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;

- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation



has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Mauricia Tyson  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 989-5547  
**Email:** [mauricia.tyson@acf.hhs.gov](mailto:mauricia.tyson@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0465**



**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.



- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

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<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.



8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR's Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility's zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.



- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;

- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will



ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

#### **SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

#### **SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Christina O. Principe  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 819-1551  
**Email:** [christina.principe@acf.hhs.gov](mailto:christina.principe@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**



**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0473**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.



- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment



		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied



children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field



- Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;
- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and



ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Christina O. Principe  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 819-1551  
**Email:** [christina.principe@acf.hhs.gov](mailto:christina.principe@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0476**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,



as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.



3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.



- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

- Program;
- ORR operational policies and relevant guidance<sup>11</sup>;
  - The UC release process;
  - Age determination policies;
  - Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
  - Prohibition against providing legal advice or counsel;
  - Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
  - Prohibition against conflicts of interest;
  - Crisis/intervention procedures and techniques;
  - Immigration and child welfare systems (local, national, international);
  - Child development theory;
  - Issues related to loss and family separation;
  - Common health and mental health issues;
  - First aid and cardiopulmonary resuscitation (CPR);
  - Medication management;
  - Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
  - Working with victims of human trafficking and other crimes;
  - Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
  - Professional boundaries;
  - Emergency and disaster preparedness;
  - Code of Conduct and Conflicts of Interest;
  - Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company



- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

- Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;
- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

#### **SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

#### **SECTION VI: Monitoring**



ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Mauricia Tyson  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 989-5547  
**Email:** [mauricia.tyson@acf.hhs.gov](mailto:mauricia.tyson@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a



**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0478**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).



be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.



	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.



Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

- Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;
- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:



<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Mark Boss  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 401-4620  
**Email:** [mark.boss@acf.hhs.gov](mailto:mark.boss@acf.hhs.gov)



**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0483**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.



- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications



Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.



3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

#### **F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.



- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

- Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;
- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.



## **SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

## **SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Christina O. Principe  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 819-1551  
**Email:** [christina.principe@acf.hhs.gov](mailto:christina.principe@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0486**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).



Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where

possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).



- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

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<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;



- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;

- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

#### **F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.



2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;

- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,

1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;



9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

#### **SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

#### **SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and

should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Mauricia Tyson  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 989-5547  
**Email:** [mauricia.tyson@acf.hhs.gov](mailto:mauricia.tyson@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4



The Privacy Act, 5 USC 552a

**COOPERATIVE AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,**

**ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),**

**OFFICE OF REFUGEE RESETTLEMENT (ORR)**

**DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)**

**AND**

**Southwest Key Programs, Inc.**

**90ZU0487**

**SECTION I: Summary**

The Director of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC)<sup>1</sup> in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who: has no lawful immigration status in the United States; has not attained 18 years of age; with respect to whom - there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

DUCO's primary objectives are to provide a safe, appropriate placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released typically to a sponsor, obtain immigration legal relief, age out, or discharged to the U.S. Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding that provide residential services for UC must comply with State residential care licensing requirements (ORR may use an addendum to this agreement for care providers operating in states which refuse to license or exempt from licensure facilities that serve unaccompanied children); the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations (see Appendix A to the Agreement), and all ORR policies and procedures including, but not limited to, the ORR Policy Guide and the Manual of Procedures.

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<sup>1</sup> The Homeland Security Act uses the term "unaccompanied alien children," ORR uses the term "unaccompanied children" or "unaccompanied child" to refer to children defined under 6 U.S.C. § 279(g)(2).

Pursuant to 6 U.S.C. § 279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **Southwest Key Programs, Inc.** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, **Southwest Key Programs, Inc.**, hereinafter called **Southwest Key Programs, Inc.** has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, **Southwest Key Programs, Inc.** will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in **Southwest Key Programs, Inc.** Notice of Award (NoA), establish the requirements and responsibilities for implementing **Southwest Key Programs, Inc.** residential services for UC. Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation achieves program goals and agency priorities.

This Cooperative Agreement may be terminated by ORR in accordance with 45 CFR 75.372 and 2 CFR 200.340.

## **SECTION II: Purpose and Objective**

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by § 462 of the HSA of 2002, 6 U.S.C. § 279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. § 1232,

as amended<sup>2</sup>; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. § 15607, as amended<sup>3</sup>; and when it is not inconsistent with subsequent law, the Flores settlement agreement.

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 amended PREA of 2003, by directing the Secretary of the HHS to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UC. The standards apply to all ORR care provider facilities housing UC except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

### **SECTION III: Authority**

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. § 6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and **Southwest Key Programs, Inc.**. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. § 279 and 8 U.S.C. § 1232(i).

### **SECTION IV: Description of Activities**

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<sup>2</sup> Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

<sup>3</sup> Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

**A. Residential and Other Services**

1. **Southwest Key Programs, Inc.** must provide residential shelter, supervision, and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.<sup>4</sup>
  - a. The grantee must be licensed to provide residential care to UC as required by ORR policies (or waived under the terms of an addendum to this agreement) and provide ORR with a copy of their operating license within 2 business days of awarding of a license.
  - b. The grantee must preserve and provide ORR copies of any documents that directly affect the placement or the ability to serve children at a residential shelter, such as:
    - Memoranda of Understanding (MOUs) with any entity affecting children who are placed or may be placed at the care provider; and,
    - Restrictions imposed by state or local agencies, including zoning boards and licensing authority.
2. Care providers must provide the following services for each UC in their care:
  - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
  - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services/U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

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<sup>4</sup> For a specific waiver of any requirement under this Cooperative Agreement, the grantee must contact their designated ORR Project Officer. Waiver requests must be received in writing and waivers or conditional waivers must be issued in writing.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the UC's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide UC with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
  - Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
  - Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
  - A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
  - Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the child.
  - Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.
3. **Southwest Key Programs, Inc.** is responsible for the supervision of children in their care, including the direct supervision for children both on and offsite the grantee's property (see staffing ratios below). The care provider must create supervision plans for unaccompanied children who have offsite appointments, recreational or leisure activities, or other offsite services. Unaccompanied children must be within the direct line of sight of care provider staff at all times for offsite appointments, activities, or services, except where expressly waived by ORR (e.g. the exercising of certain religious rites; health care appointments for non-tender age children; use of changing rooms, etc.).
4. **Southwest Key Programs, Inc.** must provide unaccompanied children with access to a private meeting space for legal service providers/attorney-client meetings, consular visits, or other privileged communications for confidential meetings or interviews. Where



possible the meeting space should allow for grantee's staff to maintain line of sight. The meeting space must be available for scheduled visits during regular business hours and take into account considerations such as size of the facility and scheduling of other services.

## **B. Organizational Capacity and Structure**

1. **Southwest Key Programs, Inc.** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **Southwest Key Programs, Inc.** must be accredited by a nationally recognized accreditation organization, at ORR's discretion.<sup>5</sup>
3. **Southwest Key Programs, Inc.** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of children.
4. **Southwest Key Programs, Inc.** must provide case management services 7 days a week and ensure case management services are provided during holidays.
5. **Southwest Key Programs, Inc.** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
6. **Southwest Key Programs, Inc.** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must

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<sup>5</sup> As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that children in their care may speak.

7. **Southwest Key Programs, Inc.** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must comply with all applicable federal law, regulations, and ORR's policies and procedures. The care provider's internal policies and procedures must address the following:
- Provision of services that is specific to the type/level of care;
  - State mandated placement criteria, including licensing-related restrictions;
  - Population of children and youth served and facility capacity;
  - Personnel policies and procedures<sup>6</sup>, including training requirements;
  - Emergency and evacuation policies and procedures;
  - Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
  - Health policies and procedures for unaccompanied children – including medication management, and, where required, rules for obtaining parental/legal guardian and/or patient informed consent;
  - Policies for providing, reviewing, and updating the *Notice of Placement in a Restrictive Setting* for UC transferred to an out of network Residential Treatment Center;
  - Policies related to mental health clinician interns;
  - Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
  - Zero tolerance policy for sexual abuse and harassment;
  - Grievance policies and procedures for both children and staff;

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<sup>6</sup> Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, background check requirements, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)<sup>7</sup>;
- Foster parent agreements to cover state licensing requirements and the agency's code of conduct for foster parents (distinguished from ORR's Code of Conduct for staff);
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;
- Relationships with key external stakeholders;
- "Drug Free Workplace" policies; and,
- Policies for the direct supervision and responsibility for unaccompanied children.
- Whistleblowing and whistleblower protections from retaliation, including reporting to HHS/Office of the Inspector General; and,
- UC Program records management, privacy and confidentiality policies.

8. **Southwest Key Programs, Inc.** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **Southwest Key Programs, Inc.** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.
9. **Southwest Key Programs, Inc.** with ORR's assistance may develop a field education internship program that partners with local colleges and universities and/or professional membership organizations, in order to place interested interns in the care provider.

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<sup>7</sup> All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR Project Officer (PO).

- a. The field education internship program must be established through a mutual agreement between the educational institution or professional organization, outlining at a minimum the requirements of the field education internship program, supervision of participants, background checks requirements of participants in accordance with this Cooperative Agreement, and other requirements mandated by law or regulation.
- b. The field education internship program must be approved by the ORR Project Officer and participants must be approved by the Project Officer prior to having direct contact with children or access to their case files.

**C. Management of Personnel and Volunteers**

1. **Southwest Key Programs, Inc.** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
  - a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR's policies and guidelines;
  - b. Include a UC to Case Manager ratio in accordance with ORR policy or program requirement; and,
  - c. Include a UC to Clinician ratio of 12:1, unless waived or otherwise modified by ORR.
2. **Southwest Key Programs, Inc.** must complete background investigations on all staff, contractors, interns, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **Southwest Key Programs, Inc.** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **Southwest Key Programs, Inc.**'s budget plan.

3. Requirements for all hired staff. All staff must:

- Be at least 21 years of age;
- Exhibit integrity and good moral character to provide appropriate care to UC;
- Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
- Be properly trained and licensed, as necessary.
- Be able to show proof of immunity to vaccine-preventable diseases transmitted by the respiratory route if working directly with UC, including:
  - Varicella: two doses of varicella vaccine (at least four weeks apart) OR born in the United States before 1980 with a reported history of chickenpox (verified by an adult present at the time of illness) OR titers indicating varicella immunity OR documentation from a healthcare provider verifying previous infection.
  - MMR: two doses of MMR vaccine (at least four weeks apart) OR titers indicating immunity to all three diseases.
  - TDap or Tdap: Complete primary vaccination series. If primary vaccination series completed in childhood, one Tdap dose in adulthood.
  - Influenza: one dose annually during flu season.
  - COVID-19: Fully vaccinated against COVID-19 (two doses of Pfizer-BioNTech; or two doses of Moderna; or one dose of Janssen), with appropriate boosters if they become necessary. An individual is considered fully vaccinated 2 weeks after their final dose. Additional dose(s): a third vaccine dose for certain groups of people, or booster dose(s) as recommended by the Centers for Disease Control and Prevention.

4. **Southwest Key Programs, Inc.** must not hire, continue employment, or enlist the services of any contractor or volunteer who has or may have contact with UC who:

- Has engaged in any form of child abuse or neglect, including domestic violence;
- Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
- Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.

5. **Southwest Key Programs, Inc.** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **Southwest Key Programs, Inc.** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **Southwest Key Programs, Inc.** personnel policies and procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.
  
6. **Southwest Key Programs, Inc.** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
  
7. **Southwest Key Programs, Inc.** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training. Further the grantee must notify their assigned ORR Project Officer promptly when there is a vacancy of any position requiring prior ORR approval.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications

Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR. If required by state licensing, possess the administrator's license.	<ul style="list-style-type: none"> <li>• Master's degree in social work or equivalent degree in education, psychology, sociology, or other relevant behavioral science degree; or</li> <li>• Bachelor's degree plus 5 years' experience in child welfare administration, child protective services</li> </ul> <p>In addition to either of the criteria above, the candidate must possess: 2 years of experience in program management or as director of a license child care program.</p>
Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment

		experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case managers.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.



Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields. Must have at least one year of experience working with child welfare standards, best practices, or quality assurance or compliance.
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<b>Positions NOT Requiring ORR Prior Approval</b>		
<b>Position</b>	<b>Job Description</b>	<b>Minimum Qualifications</b>
Case Manager <sup>8</sup>	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator,	High school diploma or equivalent degree and a minimum of 1 year of employment experience in the child welfare field working with children and/or adolescents in a social service setting.

<sup>8</sup> This position may require ORR approval if the Case Manager is conducting clinical assessments.

	the responsibilities may be combined with another position.	
Teacher	Provides educational services and assessments, including curriculum building meeting <u>Flores</u> standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents.

8. Southwest Key Programs, Inc. must report loss of any position requiring ORR prior approval and case managers to the Project Officer immediately following a personnel change.
9. **Southwest Key Programs, Inc.** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request for purposes of ORR's own program operations, planning, monitoring, or oversight. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.
  - a. Personnel files must include at the minimum:
    - Resume;
    - Job Description;
    - Employment application;
    - Professional references;
    - Personal reference;
    - Educational records/diploma;
    - Professional licensure (if applicable);
    - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
    - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
    - Child Abuse Mandated Reporter agreement (signed);
    - Confidentiality policy acknowledgement;
    - Most recent performance review (signed);
    - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
    - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
    - Driver's Record and Clearance (if transporting children and youth);
    - Record of completion of mandated trainings and required acknowledgements;

- Code of Conduct referenced in Section D of this Cooperative Agreement (signed); and,
  - Signed acknowledgment document that the employee has reviewed the ORR Code of Conduct reflected in ORR Policy Section 4.3.5.
- b. **Southwest Key Programs, Inc.** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care).<sup>9</sup> This includes:
- Establishing requirements for their selection;
  - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;
  - Using paid staff to supervise all volunteers and interns;
  - Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
  - Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references,
  - Conducting background checks on all volunteers and interns as required by ORR and state licensing requirements; and,
  - Requiring all volunteers to comply with ORR records management, privacy and confidentiality policies applicable to the UC Program.
- c. **Southwest Key Programs, Inc.** must maintain a foster parent file for each foster home that documents the foster parent's credentials, competencies, and performance, and provide access to ORR upon request. The foster parent file must be up-to-date and must include the criteria for the foster parent's selection, licensing, suspension, or termination. Foster parent files must include at the minimum:
- Resume;
  - Foster parent application;
  - Professional references;

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<sup>9</sup> Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Personal references;
- Educational records/diploma;
- Foster home licensure;
- Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
- Child Abuse Mandated Reporter agreement (signed);
- Confidentiality policy acknowledgement;
- Completed home study assessments;
- Foster parent agreement (signed);
- Annual performance review;
- Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
- National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
- Driver's Record and Clearance (if transporting children and youth); and,
- Record of completion of mandated trainings and required acknowledgements.

#### **D. Code of Conduct and Conflict of Interest Requirements**

##### **1. Code of Conduct**

- a. **Southwest Key Programs, Inc.** must create and implement a Code of Conduct that reflects the professional and ethical standards of their own agency and state licensing agency in addition to those of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders. The Code of Conduct must ensure that all board members, contractors, sub-contractors, grantees, sub-grantees, and volunteers comply with the code.

- b. **Southwest Key Programs, Inc.** must train all persons subject to the Code of Conduct and have a “whistleblower policy” that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **Southwest Key Programs, Inc.** must include proof in the personnel files that the employee has received training in, agrees to abide by, and understands the Code of Conduct. **Southwest Key Programs, Inc.** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct which are consistent with state licensing requirements and ORR policy.
  - c. The Code of Conduct must include, but not limited to, provisions with regard to ORR UC Program Policy Guide, §4.3.5.
2. **Southwest Key Programs, Inc.** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
- a. Misconduct may include but is not limited to:
    - Any criminal arrests and/or convictions;
    - Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
    - Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force, coercion or grooming behavior; or, if the victim did not consent or was unable to consent or refuse.
  - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any allegation of abuse and/or neglect, disciplinary action and/or termination of any employee to ORR according to ORR’s significant incident reporting policy and procedures and relevant state licensing requirements.

3. **Conflict of Interest**

- a. **Southwest Key Programs, Inc.** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
- b. **Southwest Key Programs, Inc.** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors, sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:
  - Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
  - Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
  - Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
  - Require staff to avoid conflicts that have the potential to exploit and/or impact the care and/or safe and timely release of children from ORR custody;
  - Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
  - State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. **Training**

1. **Southwest Key Programs, Inc.** must ensure all prospective employees meet all required educational and professional experience qualifications and demonstrate the ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees, contractors, interns, and volunteers who will be in direct contact with UC must complete pre-service training prior to direct contact with unaccompanied

children. Additionally, foster families are subject to certain required trainings under the ORR Policy Guide Section 4. **Southwest Key Programs, Inc.** must provide pre-training on the following:

- ORR’s Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children and all required training topics including:
  - ORR and the care provider facility’s zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied children;
  - How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior, including behavior indicative of grooming, as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim’s welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied children;



- Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied children in a respectful and least intrusive manner. Note that unless required by state licensing, care providers are not required to have a pat-down search policies and procedures if the care provider does not conduct pat-down searches.
  - Other trauma informed trainings as identified by ORR on a rolling basis, per instructions issued to the care provider by the ORR Project Officer; and,
  - State and local licensing requirements and other State licensing required trainings for residential service staff.
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, as amended and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **Southwest Key Programs, Inc.** must develop mandatory annual staff and foster parent trainings based on the following areas<sup>10</sup>, and provide an annual training plan for Sub-Recipient programs for ORR review covering the following topics:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC

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<sup>10</sup> Employees have two years to complete all listed trainings. They are not required to cover all topic areas within the same year.

Program;

- ORR operational policies and relevant guidance<sup>11</sup>;
- The UC release process;
- Age determination policies;
- Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
- Prohibition against providing legal advice or counsel;
- Strength-based behavior management and trauma-informed care approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
- Prohibition against conflicts of interest;
- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures;

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<sup>11</sup> Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Incident reporting; and,
- Boundary and policy training for foster parents.

5. **Southwest Key Programs, Inc.** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children in accordance with ORR policy and formal guidance. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **Southwest Key Programs, Inc.** must document all trainings completed by staff and place a copy in the staff's personnel file, including:

- The date, number of hours, and subject-matter of the employee's orientation training;
- The date and number of hours of in-service training completed by the employee in each topic area listed above;
- A confirmation that the employee understood each training that he/she completed; and,
- The name of the individual and/or entity providing the training.

**F. Grant Administration**

1. **Southwest Key Programs, Inc.** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and ORR policies and procedures. Any modifications must be discussed and approved with the ORR Project Officer prior to implementation, and in no event can circumvent any applicable Federal law, regulation, or policy.

2. **Southwest Key Programs, Inc.** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **Southwest Key Programs, Inc.** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **Southwest Key Programs, Inc.** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.
5. **Southwest Key Programs, Inc.** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the Southwest Key Programs, Inc. compliance with program requirements for purposes of ORR's own program operations, planning, monitoring, or oversight. This access includes, but is not limited to: activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **Southwest Key Programs, Inc.**'s premises, buildings, staff and UC in the program's physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **Southwest Key Programs, Inc.** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws listed in Appendix A (including any applicable restrictions from federal appropriation statutes) and regulations, and the ORR policies and procedures, unless otherwise expressly waived in writing by authorized ORR staff.
7. **Southwest Key Programs, Inc.** must not obtain certain telecommunications equipment (including video surveillance equipment) or services through a contract or other instrument, produced by the following covered entities and their subsidiaries and affiliates:
  - Huawei Technologies Company

- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

8. **Southwest Key Programs, Inc.** must submit the following documents to the ORR Project Officer, subject to waiver by the ORR Project if this information was previously submitted and unchanged:

- a. All applicable State and local licensures, incorporations, and/or authorizations for **Southwest Key Programs, Inc.** and any Sub-Recipient at the beginning of each Federal fiscal year.
- b. A description of responsibilities and activities of all organizations, individuals, or Sub-Recipients providing services to UC within 30 days of ORR's award date. All Sub-Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
  - Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;
  - A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan;
  - Complete budget for each Sub-Recipient;
  - Schedule for monitoring Sub-Recipients with respect to location, dates, and agenda will be reported to the Project Officer and Federal Field Specialist in advance of the scheduled visits to ensure timely coordination between **Southwest Key Programs, Inc.** and ORR;
  - Reports following monitoring visits of Sub-Recipients and immediately notifies the ORR Project Officer and Federal Field Specialist of any serious compliance concerns and will submit the final report to ORR within 30 days following the monitoring visit, and subsequently submit the Sub-Recipient corrective action plan for ORR review. ORR and Southwest Key Programs, Inc. will discuss the Sub-Recipient corrective action plan as needed during their regular program calls.

- Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. The monitoring Standard Operating Procedure (SOP) developed by the **Southwest Key Programs, Inc.** and reviewed by ORR for approval concerning the standards for providing technical assistance, best practice recommendations, or corrective actions, to the Sub-Recipient program. Monitoring tools of the **Southwest Key Programs, Inc.** will be made available to ORR upon request.
- d. Any corrective actions issued or program development plans addressed from the **Southwest Key Programs, Inc.** to Sub-Recipients, as well as the Sub-Recipient response will be submitted to the Project Officer and Federal Field Specialist.
- e. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- f. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- g. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- h. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- i. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- j. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR. Quarterly performance reports shall include:
- Details on any corrective actions issued or compliance issues observed at Sub-Recipient programs by **Southwest Key Programs, Inc.**;
  - Notable successes and challenges faced by the Sub-Recipient programs;
  - Capacity or state licensing issues with Sub-Recipient programs; and,
  - Reporting on technical assistance given to Sub-Recipient programs.
9. **Southwest Key Programs, Inc.** also agrees:
- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding;
  - b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
  - c. To participate in quarterly status meetings for each Sub-Recipient program with the ORR Project Officer, Federal Field Specialist and Contractor Field Specialist to discuss ongoing technical assistance provided to the Sub-Recipient program and collaboratively address program issues. The Federal Field Specialist will elevate program issues and technical assistance notes from the **Southwest Key Programs, Inc.** to the Project Officer in advance of the quarterly call.
  - d. To participate in monthly status meetings between the Project Officer and the **Southwest Key Programs, Inc.** to address network wide, fiscal and budgetary programmatic concerns;
  - e. To elevate to the Project Officer immediately any staff resignations of key personnel or personnel needed to maintain minimum staffing ratios at the Sub-Recipient programs, as well as immediately elevate to the Project Officer and Federal Field

- Specialist any emergency situation at the Sub-Recipient program that would require a stop placement;
- f. To communicate with the assigned Federal Field Specialist on a monthly basis about technical assistance provided to the Sub-Recipient program (either a staffing call or monthly technical assistance notes from call with Sub-Recipient submitted);
  - g. To allow Sub-Recipients to communicate directly and regularly with the assigned Federal Field Specialist, Contractor Field Specialist, and Case Coordinator, and to have monthly status meetings with these staff;
  - h. To not hinder access to Sub-Recipient facilities or UC placed at Sub-Recipient programs to any ORR Official;
  - i. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section IX of this agreement;
  - j. To comply with UC Program records management, privacy and confidentiality requirements in accordance with ORR policies and procedures.
10. The Service Contract Act (SCA) establishes standards for prevailing wages and safety and health protections for employees performing work for contractors and subcontractors involving the federal government and the District of Columbia. The SCA applies to UC program cooperative agreement awards and subrecipients. For this reason, every service employee under this agreement must be paid not less than the monetary wages and must be furnished fringe benefits that the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working. The term *service employee* means any person engaged in the performance of a contract entered into by the United States unless otherwise exempted under section 7 of the SCA, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, set forth in 29 CFR § 4.156 and defined in 29 CFR part 541, as of July 30,



1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

The definition of service employees expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as set forth in 29 CFR § 4.156 and defined in 29 CFR Part 541. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

The SCA applies to service employees under cooperative agreements as well as service employees covered under subrecipient or vendor relationships that are included within cooperative agreements.

Care providers are subject to the provisions of the SCA and implementing regulations found in title 29 of the CFR Part 4, including the SCA labor standards clauses found at Appendix A, and must abide by applicable Department of Labor (DOL) wage determinations, which can be found at <https://alpha.sam.gov/content/wage-determinations>, in their programs. This award also is subject to Executive Order 14026-Increasing the Minimum Wage for Federal Contractors, and its implementing regulations at 29 CFR Part 23 (see Appendix B); and Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and its implementing regulations at 29 CFR Part 13 (see Appendix C).

In computing SCA wage and fringe benefit rates, applicants can initiate a SAM.gov search. Prospective applicants shall enter the location of the UC facility identified in the application in the search field to access the applicable SCA wage determination. Once the applicable SCA wage determination has been selected, applicants must then identify the occupation code and title on the wage determination list that corresponds with the position at the UC facility within the application to identify the prevailing wage and fringe benefits for that position. Information about identifying the applicable occupation code for positions at UC shelter facilities can be found at:

<https://www.acf.hhs.gov/orr/service-contract-act-wage-classifications>. Please note that information on this website is provided to assist applicants, but applicants and awarded recipients still bear full responsibility for ensuring that the position is correctly selected, by comparing the work a position will perform against the position description.

Additional information about the SCA in general may be found on the DOL website at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>. Specific information about the SCA labor standards provisions and procedures may be found at 29 CFR Part 4: <https://alpha.sam.gov/content/wage-determinations>.

#### **G. Adherence to ACF Policy on Grants to Faith-Based Organizations**

ACF is mindful that grantees may have religious objections to providing certain kinds of services. ACF is committed to exploring ways for Faith-Based organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds. At the same time, ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. To accomplish these goals, if **Southwest Key Programs, Inc.** has a religious objection to providing any UC-required services then **Southwest Key Programs, Inc.** must notify ORR, in writing, within 30 calendar days of this agreement or publication of an ORR regulation or policy that **Southwest Key Programs, Inc.** have such an objection, and include a summary of an alternative approach that clearly describes how the organization will meet its award obligations. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, and that there is a mechanism by which UC requesting such services can receive them, either directly through **Southwest Key Programs, Inc.** or partnering organization(s) or another grantee through notice and collaboration with ORR. In its request, **Southwest Key Programs, Inc.** may cross-reference its application if any of this information was provided therein. If an alternative approach is proposed, ORR will review the alternative approach to determine whether it is consistent in principle with the following three criteria: 1) the approach will

ensure timely provision of all services for which the individual is eligible; 2) the approach is not burdensome to the UC; and 3) the approach is operationally feasible for ACF.

Any grantee that objects to one or more of the ORR requirements on the grounds that it substantially burdens the exercise of religion under the Religious Freedom Restoration Act RFRA may inform ACF and seek an exemption.

#### **H. Responsibilities of ORR**

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;
3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To participate in quarterly calls to discuss Sub-Recipient program specific issues with the **Southwest Key Programs, Inc.** (will include the Project Officer, Federal Field Specialist, Contractor Field Specialist and Grantee representative);
5. To keep **Southwest Key Programs, Inc.** informed of policy, regulatory and legal developments as they affect the implementation of the project;
6. To review and approve **Southwest Key Programs, Inc.** Sub-awards of organizations providing residential services;
7. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
8. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;

9. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
10. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).
11. To visit Sub-Recipient program sites on a regular basis to provide technical assistance and to monitor program performance and compliance with the Flores settlement agreement and ORR policy and procedures.

**SECTION V: Budget and Financial Arrangement**

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Officer shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

**SECTION VI: Monitoring**

ORR will conduct announced and unannounced monitoring activities throughout the project period, to both **Southwest Key Programs, Inc.** and Sub-Recipient programs. Monitoring of the **Southwest Key Programs, Inc.** is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures. An ORR Monitor will accompany **Southwest Key Programs, Inc.** on one monitoring visit of a Sub-Recipient program every two years to observe how **Southwest Key Programs, Inc.** ensures Sub-Recipient compliance with the Flores settlement agreement and ORR policies and procedures through onsite monitoring. ORR's observation of **Southwest Key Programs, Inc.** monitoring one of its Sub-Recipients will be incorporated into ORR's monitoring of the national organization every two years. Monitoring of the Sub-Recipient for grant and regulatory compliance is the responsibility of the **Southwest Key Programs, Inc.**. Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any .

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring visits, site visits, and case file audits. ORR Contract Field Specialists will perform case file audits throughout the project period. ORR will perform audits in its sole discretion of UC case files stored on the ORR electronic database for UC records, of UC case files stored separately in the **Southwest Key Programs, Inc.** or Sub-Recipient program's database, and/or the child's physical casefile throughout the project period. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects;
- Complexity – projects with multiple service components;
- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation

has recently undergone substantial change, may require closer scrutiny than a long established program;

- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedence over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide **Southwest Key Programs, Inc.** with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

For unannounced monitoring or site visits to the Sub-Recipient programs performed by the ORR Project Officer, Federal Field Specialist, Contractor Field Specialist, ORR Monitor, or other designated ORR staff, the ORR official will address findings and any citations for non-compliance to **Southwest Key Programs, Inc.** while specifying the name of the Sub-Recipient program it concerns. If needed, a corrective action plan, timelines for reporting, and consequences for not responding will be established. Federal Field Specialists will conduct site visits to the Sub-Recipient programs regularly throughout the project period and may interview UC as appropriate to evaluate the program's provision of services to UC. The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

**SECTION VII: Continuation Applications**

**Southwest Key Programs, Inc.** must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, **Southwest Key Programs, Inc.** will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List; and,
13. Project/Performance Site Location(s) form

**Southwest Key Programs, Inc.** must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

**SECTION VIII: Applicable Regulations and Program Policies**

**Southwest Key Programs, Inc.** must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations listed in Appendix A, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 CFR part 411 and

ORR policies and procedures. Other applicable federal regulations are listed in the attached Standard Terms and Conditions for discretionary grants.

#### **SECTION IX: Records and Reports**

For quarterly performance reports, **Southwest Key Programs, Inc.** will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, **Southwest Key Programs, Inc.** will use the attached SF-425 form, which will include report of expenditures, unliquidated obligations, and unobligated balances of funds awarded. Quarterly financial reports are due every 120 days, or by the next payment management service (PMS) quarterly report date if the quarterly end date is between quarterly reporting periods. Due dates are based on the project period start date.

**Southwest Key Programs, Inc.** will also file Federal Cash Transaction Reports (FCTR) with the Payment Management System (PMS) on a quarterly schedule established by the PMS.

The Annual Performance report is due 90 days after the end of the budget period. The Final Performance report is due 90 days after the end of the project period. The Annual and Final Financial Status reports are 90 days after the period end date, or by the next payment management service quarterly report date that follows the period end date if the end date is between quarterly reporting periods.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

**Southwest Key Programs, Inc.** must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>.

All correspondence and reports related to this agreement must include the Grant Number and



should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

**SECTION X: Project Contacts**

**Southwest Key Programs, Inc.** designates the following person as project contact for this cooperative agreement:

**Name:** Anselmo Villarreal, Ph.D.  
**Title:** President & Chief Executive Officer  
**Address:** 6002 Jain Lane  
Austin, TX 78704  
**Telephone:** 512-462-2181  
**Fax:** 512-462-2028  
**Email:** [anselmo.villarreal@swkey.org](mailto:anselmo.villarreal@swkey.org)

ORR designates the following person as ORR Project Officer for this cooperative agreement:

**Name:** Mauricia Tyson  
**Address:** 330 C. St, SW  
Washington, DC 20024  
**Telephone:** (202) 989-5547  
**Email:** [mauricia.tyson@acf.hhs.gov](mailto:mauricia.tyson@acf.hhs.gov)

**SECTION XI: Duration of Agreement**

This agreement will be effective **November 1, 2022 – October 31, 2025**. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government. The agreement may be extended by written agreement of the parties.

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**Robin Dunn Marcos**  
**Director**  
**Office of Refugee Resettlement**

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**Date**

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**Anselmo Villarreal, Ph.D.**  
**President & Chief Executive Officer**  
**Southwest Key Programs, Inc.**

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**Date**

**APPENDIX: Citations**

**Pertinent Federal Laws and Regulations for the UC Program**

Homeland Security Act of 2002, [Pub. L. No. 107-296 \(as amended\)](#)

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457

Equal Treatment for Faith Based Organizations, [45 CFR 87](#)

Extending Government Funding and Delivering Emergency Assistance Act, 2021, Public Law 117-43 (Sep. 30, 2021)

Consolidated Appropriations Act, 2021, [Pub. L. 116-260](#) (Dec. 27, 2020)\

Consolidated Appropriations Act, 2022, Pub. L. 117-103 (Mar. 15, 2022)

[45 C.F.R. part 411](#), Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children,

*J.D. v. Azar*, No. 18-5093 (D.C. Cir. 2019)

Preventing Sex Trafficking and Strengthening Families Act. [Pub. L. 113-183](#)

*Flores v. Reno*, Case No. 85-4544-RJK (C.D. Cal. 1996)

Service Contract Act, 41 U.S.C. §§6701-6707

U.S. Department of Human Services, Administration for Children and Families, “ACF’s General Terms and Conditions for Discretionary Grants”, <https://www.acf.hhs.gov/discretionary-post-award-requirements>

U.S. Department of Human Services, Administration for Children and Families, “ORR Unaccompanied Children Policy Guide, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>

U.S. Department of Human Services, Administration for Children and Families, “The UC Manual of Procedures”

[45 C.F.R. part 75](#), U.S. Department of Human Services, Administration for Children and Families, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”

2 C.F.R. 200.340, Office of Management and Budget Guidance for Grants and Agreements, Termination provision

Violence Against Women Reauthorization Act of 2013, Title XI, § 1101(d), Pub. L. 113-4

The Privacy Act, 5 USC 552a